

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ERNESTO RODRIGUEZ ORDUNEZ,
Petitioner,

v.

CIV 12-0792 JCH/KBM

PENITENTIARY OF NEW MEXICO,
JAMES LOPEZ, Warden,

Respondent.

**ORDER ADOPTING MAGISTRATE JUDGE'S
PROPOSED FINDINGS AND
RECOMMENDED DISPOSITION**

The Magistrate Judge filed her Proposed Findings and Recommended Disposition on July 8, 2013 in this counseled habeas action. *See Doc. 29.* The proposed findings notify the parties of their ability to file objections and that failure to do so waives appellate review. To-date, counsel has not filed any objections and there is nothing in the record indicating that the proposed findings were not delivered.

Wherefore,

IT IS HEREBY ORDERED AS FOLLOWS:

1. The Magistrate Judge's Proposed Findings and Recommended Disposition (*Doc. 29*) is ADOPTED;
2. Per habeas counsel's position and/or the Court's findings above, the Second Amended Petition is considered amended to have dropped the sufficiency of the evidence claim and the unexhausted ineffectiveness claim designated by Petitioner as "J;"
3. The Motion to Dismiss (*Doc. 17*) is GRANTED;
4. The § 2254 petition as amended above, is DENIED as without merit and **dismissed with prejudice**; and

5. A final order and order denying a certificate of appealability enter concurrently herewith.


UNITED STATES DISTRICT JUDGE